

Status: Point in time view as at 01/04/2016.

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SCHEDULE 1 **S**

(introduced by section 32)

RELEVANT OFFENCES

- 1 An offence falls within this paragraph if it is—
- (a) an offence under section 12 (cruelty to children under 16) of the Children and Young Persons (Scotland) Act 1937 (c. 37),
 - (b) an offence under section 15 (causing or allowing children under 16 to be used for begging or procuring alms) of that Act,
 - (c) an offence under section 22 (exposing a child under 7 to risk of burning) of that Act,
 - (d) an offence under section 33 (causing or allowing children under 17 to participate in performances which endanger life or limb) of that Act,
 - (e) an offence under section 52 (taking, distributing, showing, or publishing etc. any indecent photograph or pseudo-photograph of a child) of the Civic Government (Scotland) Act 1982 (c. 45),
 - (f) an offence under section 52A (possessing any indecent photograph or pseudo-photograph of a child) of that Act,
 - ^{F1}(g)
 - (h) an offence under section 3 (intercourse of person in position of trust with child under 16) of [^{F2}the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39)],
 - ^{F3}(i) an offence under section 5(2) (attempt to have intercourse with a girl under 13) of that Act,
 - (ia) an offence under section 5(3) (intercourse or attempt to have intercourse with a girl of over 13 and under 16) of that Act,]
 - (j) an offence under section 6 (indecent behaviour towards girl between 12 and 16) of that Act,
 - (k) an offence under section 8 (abduction and unlawful detention of unmarried girl under 18) of that Act,
 - (l) an offence under section 9 (permitting girl under 16 to use premises for intercourse) of that Act,
 - (m) an offence under section 10 (causing or encouraging the seduction of, the prostitution of, unlawful intercourse with or the commission of an indecent assault on a girl under 16) of that Act,
 - (n) an offence under section 12 (allowing child who is 4 or over but under 16 to be in a brothel) of that Act,
 - (o) an offence under section 13(5)(c) (homosexual acts with a boy under 16) of that Act,
 - (p) an offence under section 3 (sexual activity of person in position of trust with child) of the Sexual Offences (Amendment) Act 2000 (c. 44),
 - (q) an offence under section 1 (meeting a child following certain preliminary contact) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9),
 - (r) an offence under section 7 (breach of risk of sexual harm order or interim risk of sexual harm order) of that Act,
 - (s) an offence under section 9 (paying for sexual services of a child) of that Act,
 - (t) an offence under section 10 (causing or inciting provision by child of sexual services or child pornography) of that Act,

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- (u) an offence under section 11 (controlling a child providing sexual services or involved in pornography) of that Act,
- (v) an offence under section 12 (arranging or facilitating provision by child of sexual services or child pornography) of that Act.
- [^{F4}(w) an offence under section 20(1) and (2)(a) (sexual assault on a young child (under 13) by penetration of the vagina, anus or mouth by any means) of the Sexual Offences (Scotland) Act 2009 (asp 9) where the conviction is in summary proceedings,
- (x) an offence under section 20(1) and (2)(b) to (e) (sexual assault on a young child) of that Act,
- (y) an offence under section 21 (causing a young child to participate in a sexual activity) of that Act,
- (z) an offence under section 22 (causing a young child to be present during a sexual activity) of that Act,
- (za) an offence under section 23 (causing a young child to look at a sexual image) of that Act,
- (zb) an offence under section 24 (communicating indecently with a young child etc.) of that Act,
- (zc) an offence under section 25 (sexual exposure to a young child) of that Act,
- (zd) an offence under section 26 (voyeurism towards a young child) of that Act,
- (ze) an offence under section 28 (having intercourse with an older child) of that Act,
- (zf) an offence under section 29 (engaging in penetrative sexual activity with or towards an older child) of that Act,
- (zg) an offence under section 30 (engaging in sexual activity with or towards an older child) of that Act,
- (zh) an offence under section 31 (causing an older child to participate in a sexual activity) of that Act,
- (zi) an offence under section 32 (causing an older child to be present during a sexual activity) of that Act,
- (zj) an offence under section 33 (causing an older child to look at a sexual image) of that Act,
- (zk) an offence under section 34 (communicating indecently with an older child etc.) of that Act,
- (zl) an offence under section 35 (sexual exposure to an older child) of that Act,
- (zm) an offence under section 36 (voyeurism towards an older child) of that Act,
- (zn) an offence under section 42 (sexual abuse of trust) of that Act,
- (zo) an offence in respect of attempting or conspiring to commit any offence referred to in this paragraph,
- (zp) an offence in respect of aiding and abetting, inciting, counselling or procuring any offence referred to in this paragraph,
- (zq) an offence in respect of attempting or conspiring to commit any offence listed in paragraphs 9, 10 or 11 of Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010,
- (zr) an offence in respect of aiding and abetting, inciting, counselling or procuring any offence listed in paragraphs 9, 10 or 11 of Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010,

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- (zs) an offence which—
- (i) is similar in nature to an offence referred to in this paragraph, and
 - (ii) was provided for in an enactment which is no longer in force or was an offence at common law which has been abolished by an enactment.]

Textual Amendments

- F1** Sch. 1 para. 1(g) omitted (28.2.2011 coming into force in accordance with art. 1) by virtue of [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Relevant Offences\) \(Modification\) Order 2010 \(S.S.I. 2010/246\)](#), arts. 1, **3**
- F2** Words in Sch. 1 para. 1(h) substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Relevant Offences\) \(Modification\) Order 2010 \(S.S.I. 2010/246\)](#), arts. 1, **4**
- F3** Sch. 1 para. 1(i)(ia) substituted for Sch. 1 para. 1(i) (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Relevant Offences\) \(Modification\) Order 2010 \(S.S.I. 2010/246\)](#), arts. 1, **5**
- F4** Sch. 1 para. 1(w)(zs) inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Relevant Offences\) \(Modification\) Order 2010 \(S.S.I. 2010/246\)](#), arts. 1, **6**

Commencement Information

- I1** Sch. 1 para. 1 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

- 2 An individual falls within this paragraph if the individual—
- [^{F5}(za) commits an offence of culpable homicide in relation to a child,]
 - (a) commits an offence under section 4(3) (offering or supplying controlled drugs) of the Misuse of Drugs Act 1971 (c. 38) in relation to a child,
 - [^{F6}(aa) commits an offence under section 170 (penalty for fraudulent evasion of duty etc.) of the Customs and Excise Management Act 1979 (c.2) in relation to goods prohibited to be imported under section 42 (indecent or obscene articles) of the Customs Consolidation Act 1876 (c.36), if the prohibited goods included indecent photographs of persons under 16,]
 - (b) commits an offence under section 1 (incest) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) by having sexual intercourse with a child,
 - [^{F7}(ba) commits an offence under section 2 (intercourse with a step-child) of that Act in relation to a child,]
 - (c) commits an offence under section 7 (procuring unlawful intercourse etc.) of that Act in relation to a child,
 - (d) commits an offence under section 11 (trading in prostitution and brothel-keeping) of that Act in relation to a child,
 - (e) commits an offence under section 13(6) (procuring commission of homosexual act between males) of that Act by procuring, or attempting to procure, a child to commit a homosexual act,
 - [^{F8}(ea) commits an offence under section 83 (offence of ill treatment and wilful neglect) of the [Adults with Incapacity \(Scotland\) Act 2000 \(asp 4\)](#) in relation to a child,

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- (eb) commits an offence under section 311(1) and (2)(a) (non-consensual sexual acts) of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#) in relation to a child where the conviction is in summary proceedings,
- (ec) commits an offence under section 311(1) and 2(b) (non-consensual sexual acts) of that Act in relation to a child,
- (ed) commits an offence under section 313 (persons providing core services: sexual offences) of that Act in relation to a child,
- (ee) commits an offence under section 315 (ill treatment and wilful neglect of mentally disordered person) of that Act in relation to a child,
- (ef) commits an offence under section 4 (trafficking people for exploitation) of the Asylum and Immigration (Treatment of Claimants, etc.) Act [2004 \(c.19\)](#) in relation to a child,
- (eg) commits an offence under section 1 (offence of female genital mutilation) of the [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005 \(asp 8\)](#) in relation to a child,
- (eh) commits an offence under section 3 (aiding and abetting female genital mutilation) of that Act in relation to a child,
- (ei) commits an offence under section 3(1) and 2(a) (sexual assault by penetration of the vagina, anus or mouth by any means) of the [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#) in relation to a child where the conviction is in summary proceedings,
- (ej) commits an offence under section 3(1) and (2)(b) to (e) (sexual assault) of that Act in relation to a child,
- (ek) commits an offence under section 4 (sexual coercion) of that Act in relation to a child,
- (el) commits an offence under section 5 (coercing a person into being present during a sexual activity) of that Act in relation to a child,
- (em) commits an offence under section 6 (coercing a person into looking at a sexual image) of that Act in relation to a child,
- (en) commits an offence under section 7 (communicating indecently etc.) of that Act in relation to a child,
- (eo) commits an offence under section 8 (sexual exposure) of that Act in relation to a child,
- (ep) commits an offence under section 9 (voyeurism) of that Act in relation to a child,
- (eq) commits an offence under section 11 (administering a substance for sexual purposes) of that Act in relation to a child,
- (er) commits an offence under section 46 (sexual abuse of trust of a mentally disordered person) of that Act in relation to a child.]
- (f) commits any other offence which caused, or was intended to cause, bodily injury to a child,
- (g) commits any other offence by engaging in lewd, indecent or libidinous practice or behaviour towards a child.
- [^{F9}(h) commits an offence in respect of attempting or conspiring to commit any offence referred to in this paragraph,
- (i) commits an offence in respect of aiding and abetting, inciting, counselling or procuring any offence referred to in this paragraph, other than an offence referred to in sub-paragraph (eh),

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- (j) commits an offence in respect of attempting or conspiring to commit any offence listed in paragraphs 1, 2, 3, 5, 6, 7 or 8 of Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 in relation to a child,
- (k) commits an offence in respect of aiding and abetting, inciting, counselling or procuring any offence listed in paragraphs 1, 2, 3, 5, 6, 7 or 8 of Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 in relation to a child,
- (l) commits an offence in relation to a child which—
 - (i) is similar in nature to an offence referred to in this paragraph, and
 - (ii) was provided for in an enactment which is no longer in force or was an offence at common law which has been abolished by an enactment.]

Textual Amendments

- F5** Sch. 1 para. 2(za) inserted (28.2.2011 coming into force in accordance with art. 1) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (S.S.I. 2010/246), arts. 1, 7
- F6** Sch. 1 para. 2(aa) inserted (28.2.2011 coming into force in accordance with art. 1) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (S.S.I. 2010/246), arts. 1, 8
- F7** Sch. 1 para. 2(ba) inserted (28.2.2011 coming into force in accordance with art. 1) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (S.S.I. 2010/246), arts. 1, 9
- F8** Sch. 1 para. 2(ea)(er) inserted (28.2.2011 coming into force in accordance with art. 1) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (S.S.I. 2010/246), arts. 1, 10
- F9** Sch. 1 para. 2(h)(l) inserted (28.2.2011 coming into force in accordance with art. 1) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (S.S.I. 2010/246), arts. 1, 11

Commencement Information

- I2** Sch. 1 para. 2 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

SCHEDULE 2 **S**

(introduced by section 91)

REGULATED WORK WITH CHILDREN

PART 1 **S**

PRELIMINARY

Regulated work with children

1 Regulated work with children is [^{F10} work done in Scotland] in—

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- (a) a position whose normal duties include carrying out an activity mentioned in Part 2,
- [^{F11}(b) a position—
 - (i) which is not a position mentioned in sub-paragraph (a),
 - (ii) whose normal duties include work in an establishment mentioned in Part 3, and
 - (iii) which gives the holder of the position, when doing anything permitted or required in connection with the position, the opportunity to have unsupervised contact with children,]
- (c) a position mentioned in Part 4, or
- (d) a position whose normal duties include the day to day supervision or management of an individual doing regulated work with children by virtue of sub-paragraph (a) or (b).

Textual Amendments

- F10** Words in Sch. 2 para. 1 substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **12**
- F11** Sch. 2 para. 1(b) substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, **3**

Commencement Information

- I3** Sch. 2 para. 1 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. **2(a)**

Definitions in relation to unsupervised contact with children

[^{F12}1A. In this schedule—

“unsupervised contact with children” means contact with children in the absence of—

- (a) a responsible person,
- (b) a person carrying out an activity mentioned in paragraph 3, 4 or 5, or
- (c) an individual who, in relation to a child, has agreed to supervise the contact under arrangements made by the child’s parent or guardian or any person aged 18 or over with whom the child lives in the course of a family or personal relationship,

“responsible person” means, in relation to a child, any of the following persons—

- (a) the child’s parent or guardian,
- (b) any person aged 18 or over with whom the child lives,
- (c) the person in charge of any establishment mentioned in Part 3 in which the child is accommodated, is a patient or receives education (and any person acting on behalf of such a person),
- (d) a person who provides day care of children, within the meaning of [^{F13}schedule 12 to the 2010 Act],
- (e) any person holding a position mentioned in Part 4, and
- (f) any person holding a position in a children’s charity, within the meaning of paragraph 27,

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“family relationship” and “personal relationship” have the meanings given in section 95.]

Textual Amendments

- F12** Sch. 2 para. 1A inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 4
- F13** Words in Sch. 2 para. 1A(d) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **Sch. 1 para. 19(c)**

Exceptions relating to children's employment and work

- 2 Work which would be regulated work with children by virtue of any of paragraphs 3 to 7 is not, despite those provisions, regulated work with children if—
- the activity concerned is carried out in relation to children aged 16 or 17 in the course of the children's work, or
 - in the case of the activities referred to in paragraphs 5 and 6, the activity is carried out in relation to children under the age of 16 in the course of the children's employment.

Commencement Information

- I4** Sch. 2 para. 2 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. 2(a)

Application of sections 35 and 36 to host parenting

- [^{F14}2A. Work which—
- consists of being a host parent (see paragraph 11A), but
 - does not include carrying out any other activity mentioned in Part 2 otherwise than in connection with being a host parent,
- is not regulated work with children for the purposes of sections 35 and 36.]

Textual Amendments

- F14** Sch. 2 para. 2A inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 5

PART 2 **S**

ACTIVITIES

Caring for children

- 3 Caring for children (except caring for children which is merely incidental to caring for individuals who are not children).

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Commencement Information

I5 Sch. 2 para. 3 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Teaching, instructing, training or supervising children

- 4 Teaching, instructing, training or supervising children (except teaching, instructing, or training children which is merely incidental to teaching, instructing, or training individuals who are not children).

Commencement Information

I6 Sch. 2 para. 4 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Being in sole charge of children

- 5 Being in sole charge of children.

Commencement Information

I7 Sch. 2 para. 5 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Unsupervised contact with children

- [^{F156} Unsupervised contact with children under arrangements made by a responsible person.]

Textual Amendments

F15 Sch. 2 para. 6 substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, **6**

Commencement Information

I8 Sch. 2 para. 6 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Providing advice or guidance to children

- 7 Providing advice or guidance to a child or to particular children which relates to physical or emotional well-being, education or training (except providing advice or guidance to a child or to particular children which is merely incidental to providing advice or guidance to individuals who are not children).

Commencement Information

I9 Sch. 2 para. 7 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

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Moderating certain interactive communication services

- 8 Moderating a public electronic interactive communication service which is intended for use wholly or mainly by children. A person moderates such a service if, for the purpose of protecting children, the person has any function relating to—
- (a) monitoring the content of matter which forms any part of the service,
 - (b) removing matter from, or preventing the addition of matter to, the service, or
 - (c) controlling access to, or use of, the service.

But a person only moderates such a service as mentioned in sub-paragraph (b) or (c) if the person has—

- (i) access to the content of the matter, or
- (ii) contact with users of the service.

Commencement Information

I10 Sch. 2 para. 8 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Provision of care home services

- ^{F16}9 Providing, or working for an organisation which provides, a care home service which is provided exclusively or mainly for children (but only if doing anything permitted or required in connection with the position gives the holder of the position the opportunity to have contact with children). “Care home service” has the same meaning as in [^{F16} schedule 12 to the 2010 Act].

Textual Amendments

F16 Words in [Sch. 2 para. 9](#) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 14 para. 35(b)**; [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

Commencement Information

I11 Sch. 2 para. 9 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Provision of independent health care services

- 10 Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children (but only if doing anything permitted or required in connection with the position gives the holder of the position the opportunity to have contact with children). “Independent health care service” has the same meaning as in [^{F17} section 10F of the National Health Service (Scotland) Act 1978 (c. 29)].

Textual Amendments

F17 Words in [Sch. 2 para. 10](#) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 17 para. 36(e)**; [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

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Commencement Information

I12 Sch. 2 para. 10 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

Work on day care premises

- 11 Work on any part of day care premises at times when children are being looked after in that part. “Day care premises” means premises at which day care of children, within the meaning of ^{F18} schedule 12 to the 2010 Act], is provided.

Textual Amendments

F18 Words in Sch. 2 para. 11 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 35\(c\)](#); [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#); [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

Commencement Information

I13 Sch. 2 para. 11 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

Being a host parent

^{F19}11A. Being a host parent.

A “host parent” is a person—

- (a) who provides overnight accommodation for, or otherwise looks after, a child (as if the child were part of that person’s family) in connection with an organised activity in which the child is participating, but
- (b) who is not responsible for looking after the child when the child is participating in that activity.]

Textual Amendments

F19 [Sch. 2 para. 11A](#) inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), [arts. 1](#), [7](#)

PART 3 **S**

ESTABLISHMENTS

Children's detention institution

- 12 An institution which is exclusively or mainly for the detention of children. “Detention” means detention by virtue of an order of a court or under an enactment.

Commencement Information

I14 Sch. 2 para. 12 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

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Children's hospital

- 13 A hospital which is exclusively or mainly for the reception and treatment of children. “Hospital” has the meaning given by section 108(1) (interpretation) of the National Health Service (Scotland) Act 1978 (c. 29).

Commencement Information

I15 Sch. 2 para. 13 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Educational institutions etc.

- 14 A school.

Commencement Information

I16 Sch. 2 para. 14 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

- 15 A further education institution. “Further education institution” means a body listed under the heading “Institutions formerly eligible for funding by the Scottish Further Education Funding Council” in schedule 2 to the Further and Higher Education (Scotland) Act 2005 (asp 6) ^[F20] or a college of further education which is assigned to a regional strategic body by order made under section 7C(1) of that Act].

Ministers may by order amend the definition of “further education institution” so as to include or exclude bodies listed in that schedule.

Textual Amendments

F20 Words in [Sch. 2 para. 15](#) inserted (1.8.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 9](#); [S.S.I. 2014/79](#), art. 2(2), [Sch. 2](#)

Commencement Information

I17 Sch. 2 para. 15 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

- 16 A hostel used mainly by pupils attending a school or institution mentioned in paragraph 14 or 15 respectively.

Commencement Information

I18 Sch. 2 para. 16 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Children's home

- 17 A home which is exclusively or mainly for children and

^[F21](1) provided by a council under—

- (a) section 59 (provision by councils of residential and other establishments) of the Social Work (Scotland) Act 1968 (c. 49), or
- (b) section 25 (provision of care and support services by local authority) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).^[F22] or

Status: Point in time view as at 01/04/2016.

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) provided or secured by a person to whom a function conferred by a provision mentioned in sub-paragraph (1)(a) or (b) is delegated by a council in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014]

Textual Amendments

- F21** Words in Sch. 2 para. 17 renumbered as Sch. 2 para. 17(1) (1.4.2016) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2016 \(S.S.I. 2016/150\)](#), arts. 1, **2(3)(a)**
- F22** Sch. 2 para. 17(2) and word inserted (1.4.2016) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2016 \(S.S.I. 2016/150\)](#), arts. 1, **2(3)(b)**

Commencement Information

- I19** Sch. 2 para. 17 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. **2(a)**

PART 4 **S**

POSITIONS

Manager of educational institutions etc.

- 18 Manager, or member of a governing body, body of trustees or other body responsible for the management, of a school, further education institution or hostel mentioned in paragraphs 14 to 16 (but not a member of a council).

Commencement Information

- I20** Sch. 2 para. 18 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. **2(a)**

Member of council committee

- 19 Member of—
- (a) a committee (including joint committee) of a council which is concerned with the provision of education, accommodation, social services or health care services to children,
 - (b) a sub-committee which discharges any functions of any such committee.

Commencement Information

- I21** Sch. 2 para. 19 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. **2(a)**

Status: Point in time view as at 01/04/2016.

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Member of children's panel etc.

Information held by regulated work providers

- 20 (1) Ministers may require a person falling within subsection (2) to provide them with any information held by the person which Ministers think might be relevant for the purpose of enabling or assisting them to decide whether to list an individual.
- (2) A person falls within this subsection if—
- (a) the individual is doing, or has done, regulated work for the person,
 - (b) the individual has been offered regulated work by the person (whether or not the individual subsequently did the work),
 - (c) it is an employment agency which has offered or supplied, or made arrangements with a view to offering or supplying, the individual to another person for regulated work (whether or not the arrangements are still in place), or
 - (d) it is an employment business which employs or has employed the individual to do regulated work for another person.
- (3) A person who fails, without reasonable excuse, to comply with a requirement made under subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Commencement Information

I22 S. 20 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

[^{F23}20A. National Convener of Children's Hearings Scotland.

Textual Amendments

F23 Sch. 2 paras. 20A, 20B inserted (24.6.2013) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) \(Children's Hearings\) Order 2013 \(S.S.I. 2013/203\)](#), arts. 1(2), 4

20B. Principal Reporter.]

Textual Amendments

F23 Sch. 2 paras. 20A, 20B inserted (24.6.2013) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) \(Children's Hearings\) Order 2013 \(S.S.I. 2013/203\)](#), arts. 1(2), 4

Chief social work officer

21 Chief social work officer of a council.

Commencement Information

I23 Sch. 2 para. 21 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Status: Point in time view as at 01/04/2016.

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Chief education officer

22 Chief education officer (however called) of a council.

Commencement Information

I24 Sch. 2 para. 22 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Commissioner for Children and Young People in Scotland

23 Commissioner for Children and Young People in Scotland.

Commencement Information

I25 Sch. 2 para. 23 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

24 Member of that Commissioner's staff.

Commencement Information

I26 Sch. 2 para. 24 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Registrar of Independent Schools in Scotland

25 Registrar of Independent Schools in Scotland.

Commencement Information

I27 Sch. 2 para. 25 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

Fostering

26 Foster carer.

Commencement Information

I28 Sch. 2 para. 26 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

[^{F24}Charity trustee of a children's charity.]

Textual Amendments

F24 Sch. 2 para. 27 substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 8

27 “Children’s charity” means a charity whose—
(a) main purpose is to provide benefits for children, and

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(b) principal means of delivery of those benefits is by its workers doing regulated work with children.

An individual works for a charity if the individual works under any arrangements made by the charity.

Commencement Information

I29 Sch. 2 para. 27 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

PART 5 **S**

GENERAL

Power to amend schedule

28 Ministers may by order modify this schedule as they think appropriate.

Commencement Information

I30 Sch. 2 para. 28 in force at 18.4.2010 for specified purposes by [S.S.I. 2010/133](#), [art. 2](#), [Sch.](#)

I31 Sch. 2 para. 28 in force at 28.2.2011 in so far as not already in force by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

29 An order under paragraph 28 may disapply or otherwise modify the application of sections 34 to 37 in relation to particular kinds of regulated work with children.

Commencement Information

I32 Sch. 2 para. 29 in force at 18.4.2010 for specified purposes by [S.S.I. 2010/133](#), [art. 2](#), [Sch.](#)

I33 Sch. 2 para. 29 in force at 28.2.2011 in so far as not already in force by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

SCHEDULE 3 **S**

(introduced by section 91)

REGULATED WORK WITH ADULTS

PROSPECTIVE

PART 1 **S**

PRELIMINARY

Regulated work with adults

1 Regulated work with adults is [^{F25} work done in Scotland] in—

(a) a position whose normal duties include carrying out an activity mentioned in Part 2,

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- [^{F26}(b) a position—
- (i) which is not a position mentioned in sub-paragraph (a),
 - (ii) whose normal duties include work in an establishment mentioned in Part 3,
 - (iii) which gives the holder of the position, when doing anything permitted or required in connection with the position, the opportunity to have unsupervised contact with protected adults, and
 - (iv) where contact with protected adults, when the holder of the position is doing anything permitted or required in connection with the position, is more than incidental,]
- (c) a position mentioned in Part 4, or
- (d) a position whose normal duties include the day to day supervision or management of an individual doing regulated work with adults by virtue of sub-paragraph (a) or (b).

[^{F27} " Unsupervised contact with protected adults " means contact with protected adults in the absence of an individual doing regulated work within the establishment where the contact takes place.]

Textual Amendments

- F25** Words in Sch. 3 para. 1 substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **13**
- F26** Sch. 3 para. 1(b) substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Adults\) Order 2010 \(S.S.I. 2010/245\)](#), arts. 1, **3(a)**
- F27** Words in Sch. 3 para. 1 inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Adults\) Order 2010 \(S.S.I. 2010/245\)](#), arts. 1, **3(b)**

PART 2 **S**

ACTIVITIES

Caring for adults

- 2 Caring for protected adults (except caring for protected adults under the age of 18 which is merely incidental to caring for children generally).

Commencement Information

- I34** Sch. 3 para. 2 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. 2(a)

Status: Point in time view as at 01/04/2016.

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PROSPECTIVE

Teaching, instructing, training and supervising adults

- 3 Teaching, instructing, training or supervising protected adults (except teaching, instructing, training or supervising protected adults which is merely incidental to teaching, instructing, training or supervising individuals who are not protected adults).

PROSPECTIVE

Being in sole charge of adults

- 4 Being in sole charge of protected adults (except being in sole charge of protected adults which is merely incidental to being in sole charge of individuals who are not protected adults).

Providing assistance, advice or guidance to adults

- 5 Providing assistance, advice or guidance to a protected adult or particular protected adults which relates to physical or emotional well-being, education or training (except providing assistance, advice or guidance to a protected adult or protected adults which is merely incidental to providing assistance, advice or guidance to individuals who are not protected adults).

Commencement Information

I35 Sch. 3 para. 5 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Provision of care home services

^{F28}6

Textual Amendments

F28 Sch. 3 para. 6 omitted (28.2.2011 coming into force in accordance with art. 1) by virtue of [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Adults\) Order 2010 \(S.S.I. 2010/245\)](#), arts. 1, 4

Inspecting care services on behalf of the [^{F29} Social Care and Social Work Improvement Scotland][^{F30} and Healthcare Improvement Scotland]

Textual Amendments

F29 Words in Sch. 3 para. 7 crossheading substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 14 para. 36(c)**; S.S.I. 2010/321, art. 3, Sch.

Status: Point in time view as at 01/04/2016.

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F30 Words in Sch. 3 para. 7 crossheading added (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(g\)](#); S.S.I. 2010/321, art. 3, Sch.

7 Inspecting adult care services (including inspecting any premises used for the purposes of providing such services) in pursuance of [^{F31} section 10J or 10M of the National Health Service (Scotland) Act 1978 (c. 29) or]^{F32}Part 5 of the 2010 Act]

An “adult care service” is—

- (a) a support service,
- (b) an adult placement service,
- (c) a care home service,
- (d) a housing support service, or
- (e) an independent health care service which provides services of the type prescribed under section 94(1)(b),

not provided mainly or exclusively to children.

“Support service”, “adult placement service”, “care home service”, [^{F33} and] “housing support service”^{F34} ... have the same meanings as in [^{F35} schedule 12 to the 2010 Act]^{F36}; and “independent health care service” has the same meaning as in section 10F of the National Health Service (Scotland) Act 1978. ”].

Textual Amendments

- F31** Words in Sch. 3 para. 7 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(f\)\(i\)](#); S.S.I. 2010/321, art. 3, Sch.
- F32** Words in Sch. 3 para. 7 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 36\(b\)\(i\)](#); S.S.I. 2010/321, art. 3, Sch.
- F33** Word in Sch. 3 para. 7 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 36\(b\)\(ii\)](#); S.S.I. 2010/321, art. 3, Sch.
- F34** Words in Sch. 3 para. 7 repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(f\)\(ii\)](#); S.S.I. 2010/321, art. 3, Sch.
- F35** Words in Sch. 3 para. 7 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 36\(b\)\(iii\)](#); S.S.I. 2010/321, art. 3, Sch.
- F36** Words in Sch. 3 para. 7 added (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(f\)\(iii\)](#); S.S.I. 2010/321, art. 3, Sch.

Commencement Information

- I36** Sch. 3 para. 7 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Status: Point in time view as at 01/04/2016.

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PART 3 **S**

ESTABLISHMENTS

Care home

- 8 A care home. “Care home” means accommodation occupied mainly or exclusively by individuals aged 16 or over which is provided by an organisation carrying on a care home service (within the meaning of [F37]schedule 12 to the 2010 Act).

Textual Amendments

F37 Words in Sch. 3 para. 8 substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, Sch. 1 para. 19(d)

Commencement Information

I37 Sch. 3 para. 8 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Residential establishment or accommodation

- 9 A residential establishment or accommodation occupied exclusively or mainly by individuals aged 16 or over which is provided by, or the provision of which is secured by,
- [F38](1) a council under—
- (a) the Social Work (Scotland) Act 1968 (c. 49), or
 - (b) section 25 (provision of care and support services by local authority) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13). [F39], or
- (2) a person to whom a function conferred by a provision mentioned in sub-paragraph (1) (a) or (b) is delegated by a council in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014.]

Textual Amendments

F38 Words in Sch. 3 para. 9 renumbered as Sch. 3 para. 9(1) (1.4.2016) by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications) Order 2016 (S.S.I. 2016/150), arts. 1, 2(4)(a)

F39 Sch. 3 para. 9(2) and word inserted (1.4.2016) by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications) Order 2016 (S.S.I. 2016/150), arts. 1, 2(4)(b)

Commencement Information

I38 Sch. 3 para. 9 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Status: Point in time view as at 01/04/2016.

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PART 4 **S**

POSITIONS

Member of council committee

- 10 Member of a committee (including joint committee) of a council which is concerned with the provision of education, accommodation, social services or health care services to protected adults. Any reference to a committee includes a reference to any sub-committee which discharges any functions of that committee.

Commencement Information

I39 Sch. 3 para. 10 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Chief social work officer

- 11 Chief social work officer of a council.

Commencement Information

I40 Sch. 3 para. 11 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Charity trustee

- [^{F40}12 Charity trustee of a charity whose—
- (a) main purpose is to provide benefits for protected adults, and
 - (b) principal means of delivery of those benefits is by its workers doing regulated work with adults.

An individual works for a charity if the individual works under any arrangements made by the charity.]

Textual Amendments

F40 Sch. 3 para. 12 substituted (28.2.2011 coming into force in accordance with art. 1) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Adults) Order 2010 (S.S.I. 2010/245), arts. 1, 5

Commencement Information

I41 Sch. 3 para. 12 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

PART 5 **S**

GENERAL

Power to amend schedule

- 13 Ministers may by order modify this schedule as they think appropriate.

Status: Point in time view as at 01/04/2016.

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

- I42 Sch. 3 para. 13 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.
- I43 Sch. 3 para. 13 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a)

14 An order under paragraph 13 may disapply or otherwise modify the application of sections 34 to 37 in relation to particular kinds of regulated work with adults.

Commencement Information

- I44 Sch. 3 para. 14 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

SCHEDULE 4 **S**
(introduced by section 88)

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Teaching Council (Scotland) Act 1965 (c. 19)

F41₁

Textual Amendments

- F41 Sch. 4 para. 1 repealed (2.4.2012) by The Public Services Reform (General Teaching Council for Scotland) Order 2011 (S.S.I. 2011/215), art. 2, Sch. 7

F42₂

Textual Amendments

- F42 Sch. 4 para. 2 repealed (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Miscellaneous Provisions) Order 2010 (S.S.I. 2010/446), arts. 1(2), 21

Commencement Information

- I45 Sch. 4 para. 2 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

F43₃

Textual Amendments

- F43 Sch. 4 para. 3 repealed (2.4.2012) by The Public Services Reform (General Teaching Council for Scotland) Order 2011 (S.S.I. 2011/215), art. 2, Sch. 7

F44₄

Status: Point in time view as at 01/04/2016.

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Textual Amendments

F44 Sch. 4 para. 4 repealed (2.4.2012) by [The Public Services Reform \(General Teaching Council for Scotland\) Order 2011 \(S.S.I. 2011/215\)](#), art. 2, [Sch. 7](#)

Education (Scotland) Act 1980 (c. 44)

5 The Education (Scotland) Act 1980 is amended as follows.

Commencement Information

I46 Sch. 4 para. 5 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

- 6 In section 98A—
- (a) in subsection (5)(a)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”,
 - (b) in subsection (6), for the definition of “disqualified from working with children” substitute—

““barred from regulated work with children” shall be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);”.

Commencement Information

I47 Sch. 4 para. 6 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

- 7 In section 99(1A)—
- (a) in paragraph (g)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”,
 - (b) in paragraph (h)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”.

Commencement Information

I48 Sch. 4 para. 7 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

- 8 In section 135(1)—
- (a) after the definition of “attendance order” insert—

““barred from regulated work with children” has the meaning given by section 98A(6) of this Act;”,
 - (b) the definition of “disqualified from working with children” is repealed.

Commencement Information

I49 Sch. 4 para. 8 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

Status: Point in time view as at 01/04/2016.

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Foster Children (Scotland) Act 1984 (c. 56)

9 The Foster Children (Scotland) Act 1984 is amended as follows.

Commencement Information

I50 Sch. 4 para. 9 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

10 In section 7, after subsection (2) insert—

“(3) A person who lives in the same premises as a barred person shall not maintain a foster child.

(4) In subsection (3) (and in section 15(2A)), “barred person” means a person who is barred from regulated work with children (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)).”.

Commencement Information

I51 Sch. 4 para. 10 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

11 In section 15, after subsection (2) insert—

“(2A) A person shall not be guilty of an offence under subsection (1)(c) above in relation to a contravention of section 7(3) if the person proves that he did not know, and had no reasonable ground for believing, that any other person living in the premises in which the person lives was a barred person.”.

Commencement Information

I52 Sch. 4 para. 11 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

12 In section 21, before the definition of “care home service” insert—

““barred person” has the meaning given by section 7(4);”.

Commencement Information

I53 Sch. 4 para. 12 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Criminal Procedure (Scotland) Act 1995 (c. 46)

13 The 1995 Act is amended as follows.

Commencement Information

I54 Sch. 4 para. 13 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

14 In section 106(1)—

- (a) paragraphs (db) and (dc) are repealed,
- (b) in paragraph (f), sub-paragraphs (ii) and (iii) are repealed.

Status: Point in time view as at 01/04/2016.

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I55 Sch. 4 para. 14 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 15 In section 110(1)(a), the words “, the proposal to make a reference was made” are repealed.

Commencement Information

I56 Sch. 4 para. 15 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 16 Section 111(3) is repealed.

Commencement Information

I57 Sch. 4 para. 16 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 17 In section 116, for subsection (2) substitute—
 “(2) A person who has appealed against both conviction and sentence (or, as the case may be, against both conviction and a decision mentioned in section 106(1)(bb) or both conviction and disposal and order) may abandon the appeal in so far as it is against conviction and may proceed with it against sentence (or, as the case may be, decision, disposal or order) alone.”.

Commencement Information

I58 Sch. 4 para. 17 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 18 In section 118—
 (a) in subsection (4), for the words “106(1)(ba), (bb), (c), (d), (da), (dc), (e) or (f)” substitute “ 106(1)(ba), (bb), (c), (d), (da), (e) or (f) ”,
 (b) subsection (4AA) is repealed,
 (c) in subsection (7)—
 (i) the words “or, as the case may be,” at the end of paragraph (a), and
 (ii) paragraph (b),
 are repealed.

Commencement Information

I59 Sch. 4 para. 18 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 19 In section 121A(1), the words “(other than an appeal under section 106(1)(db) or (dc))” are repealed.

Commencement Information

I60 Sch. 4 para. 19 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 20 In section 173(2), the words “or (cb)” are repealed.

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Commencement Information

I61 Sch. 4 para. 20 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 21 In section 175—
- (a) in subsection (2)—
 - (i) paragraph (cb)(but not the word “or” which appears immediately after that paragraph) is repealed,
 - (ii) in paragraph (d), sub-paragraphs (ii) and (iii) are repealed,
 - (b) in subsection (8), for the words from “under” to the end of paragraph (c) substitute “against both conviction and sentence may abandon the appeal in so far as it is against conviction and may proceed with it against sentence alone,”,
 - (c) in subsection (9), the words “or (cb)” are repealed.

Commencement Information

I62 Sch. 4 para. 21 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 22 Section 181(4) is repealed.

Commencement Information

I63 Sch. 4 para. 22 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 23 In section 186—
- (a) the words “or (cb)”, where they appear in subsections (1), (2), (9) and (10), are repealed,
 - (b) in subsection (2)(a)—
 - (i) at the end of sub-paragraph (i) insert “ or ”,
 - (ii) sub-paragraph (iii)(and the word “or” which immediately precedes it) are repealed.

Commencement Information

I64 Sch. 4 para. 23 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 24 In section 187(1), the words “or (cb)” are repealed.

Commencement Information

I65 Sch. 4 para. 24 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

- 25 In section 189—
- (a) subsection (2A) is repealed,
 - (b) in subsection (7)(b)—
 - (i) the words “or, as the case may be,” at the end of paragraph (a), and
 - (ii) paragraph (b),

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are repealed.

Commencement Information

I66 Sch. 4 para. 25 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

26 In section 193A(1), the words “(other than by way of an appeal under section 175(2) (cb) of this Act against a reference only)” are repealed.

Commencement Information

I67 Sch. 4 para. 26 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

Police Act 1997 (c. 50)

27 Part 5 of the 1997 Act is amended as follows.

Commencement Information

I68 Sch. 4 para. 27 in force at 11.1.2008 for specified purposes by S.S.I. 2007/564, art. 2, Sch.

I69 Sch. 4 para. 27 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a) (with art. 3)

28 In section 113A, after subsection (5) insert—

“(5A) The Scottish Ministers need not issue a criminal record certificate under subsection (1) if the statement accompanying the application states that the purpose for which the certificate is required is the purpose mentioned in disclosure condition C (set out in section 55 of the Protection of Vulnerable Groups (Scotland) Act 2007) (asp 14).”.

Commencement Information

I70 Sch. 4 para. 28 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

29 After section 113B insert—

“113CA Suitability information relating to children

(1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.

(2) Suitability information relating to children is—

- (a) whether the applicant is barred from regulated work with children;
- (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
- (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
- (d) whether the Independent Barring Board is considering whether to include the applicant in the children's barred list in pursuance of

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paragraph 3 or 5 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

113CB Suitability information relating to protected adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.
- (2) Suitability information relating to protected adults is—
 - (a) whether the applicant is barred from regulated work with adults;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
 - (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;
 - (d) whether the Independent Barring Board is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
 - (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
 - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”

Commencement Information

- I71** Sch. 4 para. 29 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.
I72 Sch. 4 para. 29 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a) (with art. 3)

30 Sections 113C to 113F are repealed.

Commencement Information

- I73** Sch. 4 para. 30 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

31 In section 114—

- (a) in subsection (2), for “a Minister of the Crown” substitute “ a person mentioned in subsection (2A) ”,
- (b) after subsection (2) insert—

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- “(2A) Any of the following persons may make a statement for the purposes of subsection (2)—
- (a) a Minister of the Crown;
 - (b) a member of the Scottish Executive;
 - (c) any other office-holder in the Scottish Administration; or
 - (d) a nominee of any person mentioned in paragraphs (a) to (c).”
- (c) in subsection (3), for “Sections 113A(3) to (6) and 113C to 113F” substitute “Section 113A(3) to (6)”.

Commencement Information

I74 Sch. 4 para. 31 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

- 32 In section 116—
- (a) in subsection (2), for “a Minister of the Crown, or a person nominated by a Minister of the Crown,” substitute “a person mentioned in subsection (2A)”,
 - (b) after subsection (2) insert—
 - “(2A) Any of the following persons may make a statement for the purposes of subsection (2)—
 - (a) a Minister of the Crown;
 - (b) a member of the Scottish Executive;
 - (c) any other office-holder in the Scottish Administration; or
 - (d) a nominee of any person mentioned in paragraphs (a) to (c).”
 - (c) in subsection (3), for “113C to 113F” substitute “113CA to 113CC”.

Commencement Information

I75 Sch. 4 para. 32 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

- 33 In section 117, after subsection (2) insert—
- “(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).
 - (4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether the chief officer still thinks that the information concerned might be relevant for the purpose in respect of which it was requested.”.

Commencement Information

I76 Sch. 4 para. 33 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

- 34 In section 118—
- (a) in subsection (2A)(a), for “United Kingdom Passport Agency” substitute “Identity and Passport Service”,
 - (b) after subsection (2A) insert—

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“(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant’s identity.”,

(c) for subsection (3) substitute—

“(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as reasonably practicable after they have been used for the purpose mentioned in subsection (1).”.

Commencement Information

I77 Sch. 4 para. 34 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

35 In section 119A(2), the words from “; and” to the end of the subsection are repealed.

Commencement Information

I78 Sch. 4 para. 35 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

36 In section 120(5)(b) for the words from “countersign” to “113B” substitute “—
(“) countersign applications under section 113A or 113B; or
(ii) make declarations in relation to disclosure requests made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),”.

Commencement Information

I79 Sch. 4 para. 36 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

37 In section 120A—
(a) in subsection (3)(b), for “included in any list mentioned in section 113C(3) or 113D(3)” substitute “barred from regulated work with children or adults (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14))”,
(b) in subsection (4)(b)(iii), after “applications” insert “ , or the making of declarations,”.

Commencement Information

I80 Sch. 4 para. 37 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

38 Section 121 is repealed.

Commencement Information

I81 Sch. 4 para. 38 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

39 In section 122—

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- (a) in subsection (3)—
 - (i) after “113B” insert “, or make a disclosure under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), ”,
 - (ii) after “application” insert “ or, as the case may be, made the declaration in relation to the disclosure request ”,
 - (iii) after “countersigned”, where it appears in paragraph (b), insert “ or, as the case may be, made the declaration ”,
- (b) in subsection (4)(b)—
 - (i) the words after “person” become sub-paragraph (i), and
 - (ii) after that new sub-paragraph insert “; or
 - (ii) has made or is likely to make a declaration in relation to a disclosure request made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)”.

Commencement Information

182 Sch. 4 para. 39 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

40 Before section 123 insert—

Delegation of functions of Scottish Ministers

- “122B) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.
- (2) An excepted function is a function—
 - (a) relating to the making of regulations or orders;
 - (b) relating to the publishing or revising of a code of practice;
 - (c) relating to the laying of a code of practice before the Scottish Parliament;
 - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
 - (e) under section 125A.
 - (3) A delegation under subsection (1) may be varied or revoked at any time.
 - (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.”.

Commencement Information

183 Sch. 4 para. 40 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

41 In section 126(1), after the definition of “Minister of the Crown” insert—

““office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998 (c. 46);”.

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Commencement Information

I84 Sch. 4 para. 41 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

Protection of Children (Scotland) Act 2003 (asp 5)

42 The whole Act (other than sections 13 and 16) is repealed.

Commencement Information

I85 Sch. 4 para. 42 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5)

43 Section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act 2004 is repealed.

Commencement Information

I86 Sch. 4 para. 43 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(2))

Charities and Trustee Investment (Scotland) Act 2005 (asp 10)

44 Paragraph 15 of schedule 4 to the Charities and Trustee Investment (Scotland) Act 2005 is repealed.

Commencement Information

I87 Sch. 4 para. 44 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(2))

Inquiries Act 2005 (c. 12)

45 Part 2 of Schedule 2 to the Inquiries Act 2005 is repealed.

Commencement Information

I88 Sch. 4 para. 45 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(2))

Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)

46 The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 are repealed—

- (a) section 3(2)(d),
- (b) section 3(8), and
- (c) paragraph 14(2) of schedule 1.

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Commencement Information

189 Sch. 4 para. 46 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

SCHEDULE 5 **S**

(introduced by section 97(6))

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Textual Amendments

- F45** Words in Sch. 5 substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss.81\(2\)\(3\)\(n\)](#), [116\(5\)\(a\)](#)
- F46** Words in Sch. 5 substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\)](#), [art. 1\(5\)](#), [Sch. 4 para. 16\(d\)](#); [S.I. 2010/1621](#), [art. 2\(1\)](#), [Sch.](#)
- F47** Sch. 5 entry repealed (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), [art. 1](#), [Sch. 1 para. 19\(e\)](#)

Status:

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